

January 25 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 09-0431

STATE OF MONTANA,

Respondent and Appellee,

v.

JERRY PAUL GONZALES,

Defendant and Appellant,

FAX - FILED

JAN 25 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**THIRD UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE
OPENING BRIEF AND AFFIDAVIT IN SUPPORT**

On Appeal from the Montana Thirteenth Judicial District Court
Yellowstone County, Gregory R. Todd

APPEARANCES:

PENELOPE S. STRONG
Attorney at Law
2517 Montana Avenue
Billings, Montana 59101
Tel: (406) 839-9220
Fax: (406) 839-9221

SCOTT TWITO
Deputy Yellowstone County Attorney
P.O. Box 35025
Billings, Montana 59107
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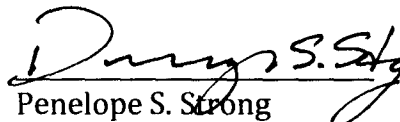
MARK MATTIOLI
Assistant Attorney General
P.O. Box 201401
Helena, MT 59620-1401
Tel: (406) 444-2026

COMES NOW, Jerry Paul Gonzales, by and through his attorney, Penelope S. Strong, and respectfully moves the Court for an Extension of Time to file the Opening Brief for Appellant, pursuant to Rule 26 (2), Montana Rules of Appellate Procedure.

The brief is due January 27, 2010 and a brief extension is requested until February 12, 2010. Counsel has been diligent and can show a substantial need for this request, as set out in her affidavit, attached to this Motion.

Opposing counsel has been contacted and does not object.

DATED this 22 day of January, 2010.


Penelope S. Strong
Attorney for Appellant

STATE OF MONTANA)

: ss.

County of Yellowstone)

AFFIDAVIT IN SUPPORT OF MOTION FOR EXTENSION OF TIME

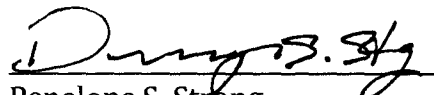
PENELOPE S. STRONG, being duly sworn, on oath deposes and states:

1. I am counsel of record for the Appellant, Mr. Jerry Paul Gonzales in this case.
2. I am a sole practitioner and carry a full-time case load.
3. I make this affidavit to support the motion for an extension in which to file the opening brief. The brief is due January 27, 2010 and an extension is requested until February 10, 2010.
4. The basis for this extension of time is that I was injured in an accident on January 8, 2010, and I suffered facial bruising and cuts and a possible concussion. I have had to take time off from work, to recuperate.
5. This, a brief extension is requested, which will not unduly delay this case.

Further Your Affiant Sayeth Not.

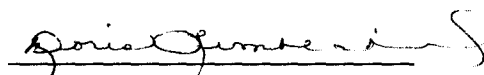
Unopposed Third Motion for Extension of time to File Opening Brief .

DATED this 22nd day of January, 2010.


Penelope S. Strong
Attorney for Appellant

STATE OF MONTANA)
 : ss
County of Yellowstone)

This instrument was acknowledged before me on this 22nd day of January, 2010.


Doris Limberhand
Name of Notary
Notary Public for the State of Montana
Residing at: Yellowstone County
My Commission Expires: June 30, 2010

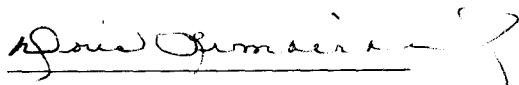
(NOTARIAL SEAL)

CERTIFICATE OF SERVICE

I state that on the 22nd day of January, 2010, I served true and accurate copies of the foregoing document upon each attorney of record, and each party not represented by attorney in the above-referenced District Court action as follows:

Scott Twito
Deputy Yellowstone County Attorney
P.O. Box 35025
Billings, MT 59107

Mark Mattioli
Department of Justice
P.O. Box 201401
Helena, MT 59620-1401


Doris Limberhand